

SERVED: January 12, 1994

NTSB Order No. EA-4060

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 7th day of January 1994

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DAVID R. HINSON,  
Administrator,  
Federal Aviation Administration,

Complainant,

Docket SE-13201

v.

RAUL D.L. NAVARRO,

Respondent.

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ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the respondent's appeal in this proceeding because it was not, as required by Section 821.48(a) of the Board's Rules of Practice, 49 C.F.R. Part 821, perfected by the timely filing of an appeal brief.<sup>1</sup> We will grant the motion.

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'Section 821.48(a) provides as follows:

§ 821.48 Briefs and oral argument

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

The record establishes that respondent on September 20, 1993, filed a timely notice of appeal from the oral initial decision the law judge rendered on September 14, 1993.<sup>2</sup> However, respondent did not file an appeal brief until November 10, 1993, 7 days after the filing deadline. In response to the motion to dismiss the respondent states that he believed that he had 50 days from the date that he filed his notice of appeal to file his appeal brief. We find no justification for respondent's error. The applicable rule clearly states that an appeal brief is due 50 days after an oral initial decision has been rendered, and the law judge orally so advised the respondent at the hearing. Thus, it does not appear that the lateness of the brief is excusable for good cause shown. See, e.g., Administrator v. Near, 5 NTSB 994 (1986) (Unfounded mistake as to filing requirement does not constitute good cause) .

In the absence of good cause to excuse respondent's noncompliance with the time limit for filing an appeal brief, his appeal must be dismissed. See Administrator v. Hooper, NTSB Order No. EA-2781 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondents appeal is dismissed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HAMMERSCHMIDT, and HALL, Members of the Board, concurred in the above order.

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<sup>2</sup>The law judge affirmed an emergency order of the Administrator revoking respondents private pilot certificate (568828614) for alleged violations of sections 610(a)(1) and (2) of the Federal Aviation Act and sections 61.3(c), 91.7(a), 91.13(a), 91.203(a)(1), 91.405(a) and (b), 91.407(a)(1) and 91.417(c) of the Federal Aviation Regulations. The respondent waived expedited processing of the case as an emergency.